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The Lawmakers tour Yucca nuclear waste site

The Hill

April 10, 2015

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Six House lawmakers on Thursday took a tour of Nevada's Yucca Mountain site, which has long been planned as a storage place for the nation's nuclear waste.

The lawmakers, lead by Rep. John Shimkus (R-Ill.), rode through a 5-mile exploratory tunnel that was built in the 1990s, before President Obama stopped the construction project in 2010 amid local opposition, the Las Vegas Review-Journal reported.

Representatives from the Energy Department and journalists accompanied the bipartisan delegation.

Shimkus, who chairs the subcommittee with responsibility over nuclear power, organized the tour to promote efforts to restart the project. He said there's little reason to oppose it and argues it would save millions for the U.S. government.

"It's 30 years, \$15 billion of an investment by the nation," Shimkus said after the 1-hour 15-minute ride through the tunnel, according to the Review-Journal.
He argued the site would be safe "for a million years."

"It's an investment that we need to keep in mind as we move forward," he added.

The Yucca debate is expected to heat up with the news that Senate Democratic Leader Harry Reid (D-Nev.) is retiring. Reid has long

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been the most outspoken opponent of using Yucca as the waste site, but he will leave the Senate after next year.

Another complication has been the Nevada presidential caucuses. Presidential hopefuls in both parties are under pressure to oppose calling for Yucca to be used as a waste site as they compete in the early nominating contest.

Shimkus took another delegation to the site in 2011. Aside from a Defense Department visit earlier this year, the 2011 trip was the last anyone has taken inside Yucca.

What made this trip different was the bipartisan attendance and the presence of Nevada members of Congress, who have historically opposed the project.

“I learned that there’s a tunnel in the ground. I learned that there’s science behind some of this stuff,” said Rep. Crescent Hardy (R-Nev.), who recently called for Nevadans to engage with proponents of Yucca to come to a possible agreement to build it.

“I’m glad I came. That gives me a little better understanding how this is set up and what the plans are if it is approved,” he said. “I think that’s important.”

Sen. Dean Heller (R-Nev.) sent out a statement criticizing the event, which he described as “nothing more than a poorly disguised gimmick.”

Shimkus has named restarting the Yucca process as one of his top priorities this year.

The Yucca 'Albatross'

Roll Call

April 9, 2015

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The consequence of a congressional stalemate is clearly visible in the nearly 75,000 metric tons of spent radioactive fuel piling up in pools of water and steel casks that rest in the shadows of the nation’s nuclear power plants.

This isn’t the way it was supposed to be. The pools and canisters were only meant to be temporary fixes while the Energy Department moved ahead with Congress’ more than two-decade-

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old plan to develop a permanent repository for commercial nuclear waste at Yucca Mountain in Nevada — until President Barack Obama moved to kill the project in 2009 before it could open.

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That decision was, at heart, a bow to the political clout of a fellow Democrat, Nevada's Harry Reid, the Senate's majority leader at the time.

Now, at the dawn of the 114th Congress, two of the nuclear industry's biggest GOP benefactors, Sen. Lamar Alexander of Tennessee and Rep. Mike Simpson of Idaho, say they see a political opening that hasn't existed in years. Their seemingly modest aim is to keep the Yucca plan alive while funding pilot interim storage programs for the growing volume of waste.

As chairmen of the Appropriations panels that oversee federal energy programs, they are well-positioned to advance legislation. Reid has been relegated the minority. And the costs continue to mount, adding urgency to the debate.

Then there was Reid's surprise announcement on March 27 that he will retire in 2016, a move that nuclear energy advocates see as a game-changer.

Despite all this, it's quite unlikely that Alexander and Simpson will make much progress — at least in the short term.

Reid still wields significant power, even as a lame duck. It's unclear how many Democrats — if any — are willing to betray their leader in order to aid their states' nuclear energy interests. Also, Reid has set up a formidable network of roadblocks to ensure «Yucca» won't move forward, even after he leaves Congress.

“We've had a lot of people that have been more important than me — including Barack Obama and Hillary Clinton — who are opposed to this,” Reid told CQ Roll Call in a March 18 interview.

Simpson and Alexander must also wrestle with a group of House Republicans who insist that getting Yucca back on track should be the sole focus.

“The Yucca Mountain issue ... is dragging the whole effort to move forward on spent nuclear fuel,” says Timothy Frazier, a senior adviser at the Bipartisan Policy Center who spent more than two decades managing nuclear programs at the Energy Department. “Yucca is like an albatross around its neck.”

Still, Yucca proponents say Reid's planned departure will reinvigorate the nuclear waste debate in this Congress and after 2016 – particularly once Senate Democrats are no longer beholden to Reid as their leader.

“Republicans are already circling the wagons to figure out what this means,” says one GOP aide familiar with the policy debate. “There is no question that the «Yucca» conversation will be refueled.”

'Screw Nevada Bill'

Whether pro-Yucca members like it or not, the road to a nuclear waste deal runs through Nevada.

The state has built serious political clout in recent years, starting with Reid's ascendancy. The Nevada presidential caucus was moved to third in the nation in 2008 to incorporate more regional and racial diversity among the early-voting contests. The change made candidates less likely to bypass the sparsely populated state — or ignore the populace's intense resistance to a Yucca Mountain repository.

“There's not a single person in their right mind who's running for president who can come to Nevada and say, 'I'm for Yucca Mountain,'” says Reid.

Nevada wasn't in the crosshairs in 1982, when the Nuclear Waste Policy Act passed both chambers of Congress with bipartisan support. The measure called for the development of disposal sites for radioactive waste and established a relatively neutral process for determining a repository.

But as Congress quickly found out, choosing a nuclear waste disposal site is like locating a maximum-security prison, only radioactive.

Congress zeroed in on Yucca Mountain in 1987 as lawmakers representing states also under consideration for hosting a permanent repository — including Washington, Texas and Louisiana — fought tooth and nail to keep the waste away from their constituents. Negotiations among three powerful Democrats — Senate Energy and Natural Resources Chairman J. Bennett Johnston of Louisiana, House Speaker Jim Wright of Texas and House Majority Leader Thomas S. Foley of Washington — foisted

the repository on the tiny Nevada delegation.

Reid, then in his first year in the Senate, fought a loud, desperate floor battle against the measure, referred to as the “screw Nevada bill,” but was ultimately steamrolled.

Reid quickly ascended the leadership ladder, but even as the Democratic whip he wasn’t able to stop a 2002 floor vote on a resolution to override Nevada’s veto of the project. But by the 2008 presidential campaign, he had flexed his political muscle enough to make Yucca Mountain an election issue, drawing commitments from candidates — including Obama — to oppose the site. Obama stuck to his word once he was in office.

Environmentalists have long argued the government rejected science in favor of political expediency in selecting Yucca Mountain.

The Nuclear Waste Policy Act envisioned the Energy Department choosing a handful of different types of geological formations that could be well-suited for containing radioactive waste for millennia and narrowing sites down from there, while taking into account proximity to power plants and population centers. Instead, groups such as the Natural Resources Defense Council say the department opted for sites that had experience with nuclear materials. They also say the Nevada site is not as dry as previously thought, posing corrosion and contamination risks.

Despite all the efforts to put an end to the Yucca repository — even after nearly \$15 billion has been spent on the project — work continues to crawl forward due to a 2013 federal appellate court ruling that compelled the Nuclear Regulatory Commission to resume its review of the project’s 2008 license application using previously appropriated funds.

The NRC released the final volumes of its safety evaluation of the site in January and plans to issue a supplemental environmental study of the project’s anticipated impacts on groundwater in the coming months. But the panel maintains that it doesn’t have the money to complete a licensing review and has no plans to ask for it.

In the meantime, operators of nuclear power plants are forced to keep storing their waste on site, regardless of whether the plant is still operating or shuttered. Because the federal government was supposed to have taken ownership of the spent nuclear fuel under

law in 1998, those power producers can sue the government for damages each year, making federal inaction on nuclear waste a spending issue.

“The government is losing \$500 million a year for failing to act,” says Alex Flint, senior vice president of governmental affairs at the Nuclear Energy Institute and a former Hill aide. “The DOE and the NRC have both determined that Yucca Mountain is technically suitable. We recognize that legislation is necessary.”

The Obama administration on March 24 moved to work around the stalemate by announcing that the Energy Department would plan a separate repository for defense waste, divorcing that from commercial spent fuel and thus the Yucca debate. But waste from power plants still represents the vast majority — department officials estimate 85 percent — of the country’s homeless used fuel.

Even under the most optimistic of scenarios, experts acknowledge that any solution for nuclear waste is years or decades away. And even if Yucca Mountain were up and running tomorrow, it would be full — meaning the country already needs to build yet another place to bury its spent fuel.

Multi-Pronged Attack Plan

Reid’s retirement announcement clearly changes the game, perhaps even before he hangs up his gloves.

“The fact is, Reid leaving improves chances now and in the future,” the GOP aide says. “There is less reason for Senate Democrats to stand in the way now, and it makes sense to do it before 2016 candidates feel caught between the Republican base and Nevada voters.”

Any action on nuclear waste in the 114th Congress would likely be propelled by pragmatists such as Alexander and Simpson.

A former governor-turned-Education secretary and a dentist, respectively, the pair acknowledges that they face major hurdles on this issue. The first obstacle: The Energy-Water spending bill that they will write hasn’t been on the Senate floor since 2009.

Still, they say there’s room this year to begin to clean up the fallout of a broken waste management system.

Despite the efforts of Reid and the White House, the Yucca Mountain project is still alive, thanks to the courts. Alexander and Simpson say the independent agency's safety evaluation studies also back up claims that the site is safe for long-term storage. (Reid and other opponents, however, say the reports show that Yucca is inherently impossible to develop without being able to obtain land and water rights from Nevada.)

Most importantly, Alexander says he sees room to maneuver with Democrats hungry to legislate on carbon-free energy in the lead-up to a major United Nations climate change conference in December. The absence of a specific plan for disposing of spent fuel from nuclear plants is one of several factors contributing to the uncertain future of atomic energy in the United States — which currently delivers a fifth of the country's electricity and the largest slice of carbon-free power.

"I hear a lot of talk from Democrats about climate change," Alexander said in February before delivering a speech on the future of nuclear power. "And if nuclear power provides 60 percent of our carbon-free electricity, and we have to have nuclear waste to have nuclear power, and Yucca Mountain by law and by science is the place to put the waste — that's a pretty strong argument."

The duo envisions a compromise that could eventually be made on the fiscal 2016 Energy-Water appropriations bill, paired with passage of a separate but complementary authorizing measure that could help break the deadlock on nuclear waste disposal.

On the authorizing side, Alexander hopes to push for passage of a bipartisan bill he has shepherded with key Democrats in recent Congresses that would establish temporary and long-term storage sites for spent nuclear fuel in consultation with states and local communities, while sidestepping Yucca.

"We need all of those options in order to have a place to put the used nuclear fuel," Alexander says. "It's safe where it is, and it's safely stored, but it never was intended that it would be stored on-site."

The administration is forging ahead on interim storage, announcing on March 24 that the Energy Department would begin establishing a consent-based process for siting temporary facilities and reaching out to communities that may be interested in hosting spent fuel. But Energy Secretary Ernest J. Moniz acknowledges that he needs Congress to act before his department can go any further — the

government can't break ground on those sites without legislative authorization.

The real test will come within the appropriations process.

In an interview before Reid's retirement announcement, Alexander said he and his Democratic counterpart on the Energy-Water spending panel, Dianne Feinstein of California, want to put money in the Senate bill for a pilot program — entirely independent from Yucca — that would be operated by the Energy Department in partnership with the private sector to build consolidated facilities for the interim storage of spent nuclear fuel until a permanent site can be developed. The idea tacks closely to recommendations from an expert commission in 2012 that had been tasked by Obama with drawing up a new nuclear waste framework.

Alexander and Feinstein have pushed the same proposal on previous appropriations bills, but it has always been stonewalled by House Republicans, who have insisted that such a plan only move forward if the NRC gets funding to continue its review of DOE's Yucca license application — a non-starter for Reid and fellow Nevada Sen. Dean Heller, a Republican. The House perennially includes money in its annual Energy-Water spending bill for the NRC's review process, and the provision is always removed in conference.

But Simpson says the interim storage pilot could fly this year if the Senate can ultimately agree to include from \$125 million to \$150 million to continue Yucca's license application at the NRC.

Some House members, including John Shimkus of Illinois, a senior Republican on the House Energy and Commerce Committee, acknowledge that getting the money to continue the Yucca licensing process can't happen without advancing an interim storage program. That posture is a significant shift from the earlier years of the Obama administration.

"As long as we're not walking away from Yucca Mountain, I think they understand the reality that we've got to have something beyond Yucca Mountain," says Simpson, referring to pro-Yucca House Republicans. "I think going down that dual path is the way to go."

Their thought is that Senate Democrats could have a hard time sticking with Reid on Yucca if funding for the repository is attached to a must-pass omnibus appropriations bill that includes

funding for a large swath of the federal government.

“I’m more optimistic than I was last year,” Simpson said in a March 16 interview. “But we’ll see. All we can do is try.”

Proponents note that, in theory, at least two-thirds of senators have a strong incentive to support a Yucca repository since nearly three dozen states with different political leanings have commercial and defense waste with no permanent home.

The nuclear meltdown at Japan’s Fukushima Daiichi power plant in March 2011 underscored concerns over on-site spent fuel storage and compelled a handful of Senate Democrats to engage with Republicans on the logjam. The accident, spawned after an earthquake and tsunami overwhelmed the plant, released radiation from damaged reactors and used nuclear fuel rods immersed in cooling pools at the facility.

“Given the opportunity to vote, I think there’s 60 votes on the Senate side. I mean, how can you be from a state that has major issues and then have a pathway to getting these finally resolved” and not take it, asks Shimkus, one of the chamber’s most vocal «Yucca» supporters.

Major Roadblocks Ahead

Despite the relative modesty of the Simpson-Alexander plan, it will still be nearly impossible to move through Congress.

Many House Republicans are wary of any attempts to take the spotlight off Yucca, which they argue is defined by law as the country’s only long-term repository. (Many also quietly enjoy the prospect of making the Senate’s top Democrat squirm.)

And across the aisle, while most House Democrats are on board with Yucca, advocates for the site don’t have a solid idea of where Senate Democrats really stand on the issue. Seventy senators — nearly half of them Democrats or independents who caucus with them — live in states with spent nuclear fuel, and they surely want to get it moved somewhere else. But most Democrats have kept their Yucca position private in deference to Reid and environmental activists.

The last time the Senate voted on Yucca was in 2002, when the chamber agreed to override then-Nevada Gov. Kenny Guinn’s veto of plans to develop a permanent nuclear waste repository at the

site. Fifteen Democrats, including Reid's current deputy, Richard J. Durbin of Illinois, broke from the Nevada leader. Only four of those Democrats remain in the chamber today, leaving it highly uncertain how many of Reid's 45 Senate colleagues would vote against him.

Durbin is in an especially awkward position when it comes to «Yucca». His state is home to the greatest concentration of radioactive waste, but he's also the No. 2 Democrat on Reid's leadership team. His 2002 vote came well before Reid's ascension to power took firm hold, and he acknowledges that things are different now.

“I don't think that's going to end up being the answer,” he said of «Yucca»«Mountain» days before Reid's retirement was announced.

But he still hesitates to say how he would vote if Republicans were to force the issue.

“I honestly, after all these years, have to really take a look at it in terms of where we are, what's happening with storage in what state,” he says.

“I need to do some homework before I announce a position,” he adds.

Washington Democrats Patty Murray and Maria Cantwell are also being watched to see where they would fall. Murray, now the No. 4 Democrat in leadership, voted to override the Nevada veto in 2002, and both she and Cantwell have indicated they're still open to «Yucca», especially as long as it doesn't preclude a resolution to their state's buildup of high-level military waste, which has long been tied to the fate of power plants' refuse.

Estimates get hazier from there.

“The dynamics of the body have changed a lot since the last time there's been a vote on this. It's very hard to get a read on who would be supportive among Democrats,” says Tom Craig, director of Duke Energy's government affairs office who until recently served as the GOP clerk on the Senate Energy-Water Appropriations Subcommittee.

Democrats may have a strong incentive to stick with Reid, at least in the short term. For one, many, including Feinstein, hold

leadership positions on committees and may not want to jeopardize those perches by betraying their party boss. Second, many allies in the environmental movement have made opposition to Yucca a fixed position. Last, Senate Democrats have quickly learned in the minority that they can extract significant concessions from Republicans if they stick together. The promise of greater clout could put a damper on efforts to collaborate.

Regardless, Alexander will need to do quite a bit of legwork to secure 60 votes.

There's also a question of whether Obama would wield his veto power over «Yucca». Heller seems to think so.

“I can't imagine that there's any opportunities available in the next couple years because the president's just going to veto it,” he says. “So they can do all the wrestling they want with this, but our delegation, most of us ... are on the same page.”

Reid, for his part, played coy about the number of Democrats who would join him and Heller in opposition on a Yucca vote. He says he's confident his efforts against Yucca won't be futile, even after he retires, and predicted defeat of any nuclear waste deal this year that includes Yucca funding.

“What they're trying to do is such little tiny stuff. It makes them feel good, but doesn't amount to much,” Reid says. “If the president of the United States doesn't like this, what do they expect is going to happen?”